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SENATE

{ REPORT
No. 1950

JOHN H. VOGEL

JUNE 27, 1952.—Ordered to be printed

Mr. McCARRAN, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 5515]

The Committee on the Judiciary, to which was referred the bill (H. R. 5515) for the relief of John H. Vogel, having considered the same, reports favorably thereon, without amendment, and recommends that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to pay the sum of \$221.41 to John H. Vogel, of Takoma Park, Md., in full settlement of his claim against the United States for reimbursement of the cost of transporting his household effects from Milwaukee, Wis., to his home in Takoma Park, Md., following his release from active duty in the Army on December 14, 1945.

STATEMENT

The report of the Department of the Army on this bill (which is appended hereto and made a part of this report) states clearly and completely the facts and circumstances basing said Department's recommendation that Mr. Vogel's claim should be satisfied by payment of the amount provided in H. R. 5515, as amended by the House Committee on the Judiciary. The committee concurs with the views stated by the Department of the Army, and recommends that H. R. 5515 be considered favorably.

Additional documentation relating to this claim is contained in House Report No. 1954, Eighty-second Congress, second session.

DEPARTMENT OF THE ARMY,
Washington, D. C., December 28, 1951.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives.

DEAR MR. CELLER: Reference is made to your letter enclosing a copy of H. R. 5515, Eighty-second Congress, a bill for the relief of John H. Vogel, and requesting a report on the merits of the bill.

This bill provides as follows:

"That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to John H. Vogel, Takoma Park, Maryland, the sum of \$245.20. The payment of such sum shall be in full settlement of all claims of the said John H. Vogel against the United States for reimbursement of the cost of transporting his household effects from Milwaukee, Wisconsin, to his home in Takoma Park, Maryland, following his release from active duty in the Army on December 14, 1945."

The records of the Department of the Army show that John H. Vogel was born in Milwaukee, Wis., on August 26, 1911; that he graduated from Lawrence College, Appleton, Wis., in 1936, receiving the degree of bachelor of philosophy in economics; and that on September 23, 1943, he was inducted into the Army of the United States as a private at Baltimore, Md.

The evidence of record in the Department of the Army shows that in September 1942 Mr. Vogel came to Washington, D. C., to accept employment with the United States Tariff Commission, and that he and his wife rented a house at 2000 Lansdowne Way, Silver Spring, Md., where they were residing at the time he was inducted into the Army. Upon his induction into the Army Mr. Vogel advised the military authorities that his home address was 2000 Lansdowne Way, Silver Spring, Md., that his mother, Mrs. Mary M. Vogel, was his nearest relative, and that her address was 1323 North Twenty-fifth Street, Milwaukee, Wis., and that the person to be notified in an emergency was his wife, Mrs. Ione T. Vogel, whose address was 2203 East Ivanhoe Place, Milwaukee, Wis. (the home of her brother, Earl A. Tetting). These facts are shown in the service record of this soldier.

On March 13, 1944, while John H. Vogel was an enlisted man, a notation was made in his service record by the military authorities to the effect that his home address, the address of his emergency addressee, his principal beneficiary, and alternate beneficiary were each 1323 North Twenty-fifth Street, Milwaukee, Wis. This notation appears to have been made on this soldier's service record without his knowledge or consent.

Upon completing the officers' candidate course at the Transportation Corps School, New Orleans, La., on January 3, 1945, John H. Vogel was commissioned a second lieutenant in the Transportation Corps, Army of the United States. At that time he was directed to execute a form designating his "civilian address of record." In accordance with such direction he duly signed said form giving his civilian address for record purposes in the War Department as 1323 North Twenty-fifth Street, Milwaukee, Wis. The executed form in question reads as follows:

"PERMANENT ADDRESS STATEMENT

"January 3, 1945.

"The following address is hereby designated as the one desired by me for use as my civilian address of record in the War Department.

"Vogel, John H., 33736206

"1323 North Twenty-fifth Street,

"Milwaukee, Wis.

"John Henry Vogel
"(First) (Middle) (Last)
"(Signature in full)

"(NOTE.—The Adjutant General, Washington, D. C., will not be given as a permanent address. A satisfactory address may be that of a relative or other person with whom arrangements have been made to forward mail."

In a statement, dated January 24, 1950, Mr. Vogel said:

"When I completed Officers Candidate School and new records were being established for me, I pointed out to the officer whose task was to see that the correct information was supplied, that prior to my induction I had lived in Silver Spring

and been employed by the Tariff Commission; that I was on military leave from my position; and that I would without question return to that employment upon separation from the Army. For these reasons, I suggested I show Silver Spring to be my permanent address. In reply, he suggested that I forego doing so at that time and that I await my arrival at a permanent station to make that change because all of my records could then be changed at one time."

On October 22, 1945, Lieutenant Vogel sent a letter to the Adjutant General of the Army in which he requested that his "address of record * * * be changed from 1323 North Twenty-fifth Street, Milwaukee, Wis., to Silver Spring, Md., the home address at time of induction." Having received no reply to such letter, Lieutenant Vogel, on November 15, 1945, again wrote to the Adjutant General requesting that his address of record be changed so as to show such address as Silver Spring, Md. On December 18, 1945, The Adjutant General advised Lieutenant Vogel as follows:

"1. The records of this office show that your permanent address at date of induction, September 23, 1943, was 2000 Lansdowne Way, Silver Spring, Md.

"2. In 1944 your service record was amended to show your permanent address as 1323 North Twenty-fifth Street, Milwaukee, Wis., and that was your permanent address of record when you were commissioned and ordered to active duty on January 3, 1945.

"3. It is the policy not to record a change of permanent address of an officer on active duty."

Lieutenant Vogel was relieved from active duty in the Army effective February 5, 1946, pursuant to Special Orders No. 3, dated January 3, 1946, issued by the Commanding General, Personnel Center, Fort Sheridan, Ill. In these orders his home address was stated as "Silver Spring, Md."

Mr. Vogel states that on January 15, 1946, he resumed his position with the United States Tariff Commission in Washington, D. C., and that shortly thereafter he and his wife reestablished their home at Takoma Park, Md., which is near 2000 Lansdowne Way, Silver Spring, Md., where they resided at the time of his induction into the Army. Subsequently they again rented and moved into the house at 2000 Lansdowne Way, Silver Spring, where they still reside.

After being relieved from active duty Mr. Vogel requested the transportation officer at Fort Sheridan, Ill., to ship his household goods from Milwaukee, Wis., to Takoma Park, Md., at Government expense, but on June 4, 1946, such request was denied and Mr. Vogel was advised that he should ship such household goods at his own expense and file a claim for reimbursement afterward. Thereafter, on or about June 10, 1946, Mr. Vogel arranged for the shipment of 3,520 pounds of household goods by van from Milwaukee to Takoma Park at a total cost of \$245.20, itemized as follows:

Transportation-----	\$221. 41
Federal excise tax-----	6. 79
Extra pick-up-----	5. 00
Insurance-----	12. 00
Total-----	245. 20

In the early part of July 1946 Mr. Vogel filed a claim with the Chief of Transportation of the Army for his reimbursement in this amount. The Chief of Transportation approved the claim except for the items aggregating \$23.79, covering Federal excise tax, extra pick-up charge, and insurance, and transmitted the papers in the case to the Finance Department of the Army recommending the payments of the claim. In transmitting the claim to the Chief of Finance the Chief of Transportation stated:

"The claimant's attention has been invited to the fact that his orders relieving him from duty, dated January 3, 1946, show his home as Silver Spring, Md., as well as the attached photostat copy of record of his service which indicates he was inducted into the service September 23, 1943, at Baltimore, Md. The officer has advised this office that after he went into the service, he designated his wife's home, Milwaukee, Wis., as his place of abode inasmuch as at that time he gave up his residence in Takoma Park, Md."

On July 21, 1947, the Chief of Finance transmitted the claim to the General Accounting Office for settlement by that office. The claim was disallowed by the Comptroller General in a decision, dated October 15, 1947, addressed to Mr. Vogel (Claim No. 2749976), which stated, in pertinent part, as follows:

"The Adjutant General's Office, War Department, Washington, D. C., has reported that you gave your permanent address upon entry on active duty as 1323 North Twenty-fifth Street, Milwaukee, Wis.

"Paragraph 14a (11) (b), Army Regulation 55-160, authorizes transportation of household effects at Government expenses upon termination of active duty to the home or to any place selected, provided the cost of shipment to the place selected is no greater than to the place designated as home when called to active duty.

"The said regulations clearly contemplate that the right to transportation of household effects shall accrue upon release from active duty only as to such household effects as are at that time at a point other than the home of record of the officer or enlisted man concerned and therefore may not be considered as authorizing transportation of household effects at Government expense from the home of record to a selected place upon relief from active duty."

Paragraph 14a (11) (b) of Army Regulations 55-160, referred to in the above-mentioned decision of the Comptroller General, was in effect at the time Lieutenant Vogel was relieved from active duty in the Army. That paragraph authorized the shipment of the household goods, not exceeding 7,500 pounds in weight, of a first lieutenant upon the termination of his active duty in the Army in excess of 61 days "to the home or to any place selected, provided the cost of shipment to the place selected is no greater than to the place designated as the home when called to active duty."

It appears that the decision of the Comptroller General disapproving the claim of Mr. Vogel for reimbursement of the cost of the shipment of his household goods from Milwaukee, Wis., to Takoma Park, Md., was based upon the fact that the War Department had reported that the claimant had given his "permanent address" upon entry upon active duty as an officer on January 3, 1945, as 1323 North Twenty-fifth Street, Milwaukee, Wis. As hereinbefore pointed out the record in this case clearly shows that when Mr. Vogel was inducted into the Army on September 23, 1943, he advised the military authorities that his "home address" was 2000 Lansdowne Way, Silver Spring, Md., and that when he was commissioned as a second lieutenant on January 3, 1943, he again advised the military authorities that his home was in Silver Spring, but he was required to sign a form designating his "civilian address of record"; that as his wife was staying in Milwaukee while he was in the Army, and as his people also lived in Milwaukee, he gave his mother's address as 1323 North Twenty-fifth Street, Milwaukee, as his "civilian address of record" in accordance with the suggestion of the military authorities. The Department of the Army is convinced that Mr. Vogel never at any time intended to change his home address from Silver Spring, Md., after he entered the Army.

In the light of the facts in this case it is the view of the Department of the Army that this claimant is equitably entitled to be reimbursed for the cost of the transportation of his household goods from Milwaukee, Wis., to Takoma Park, Md. However, inasmuch as the items of the claim covering Federal excise tax in the amount of \$6.79, extra pickup charge of \$5, and insurance in the sum of \$12, are not properly reimbursable from public funds, these items, aggregating \$23.79, should be deducted from the amount stated in the bill. The Department of the Army, accordingly, would have no objection to the enactment of this bill if it should be amended so as to provide for an award to the claimant in the amount of \$221.41.

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours,

FRANK PAGE, Jr.,
Secretary of the Army.

SILVER SPRING, MD., January 24, 1950.

Hon. J. GLENN BEALL,
House Office Building, Washington, D. C.

DEAR MR. BEALL: In this letter I will discuss my efforts to obtain payment from the Army for a movement of household goods from Milwaukee, Wis., to Silver Spring, Md., following my separation from the Army in 1946. The attached settlement certificate from the General Accounting Office, you will note, indicates payment cannot be made at present because I gave my "permanent address upon entry on active duty as at 1323 North Twenty-fifth Street, Milwaukee, Wis." You will also note in paragraph 2 of the attached letter from the Adjutant General's Office, and dated May 8, 1948, that the writer, Maj. Gen. H. B. Lewis, indicates there are conditions whereby the amount in question might be paid (and the requirements stated fit my case well), but states, "However, since you gave Milwaukee, Wis., as your home of record upon induc-

tion as well as at the time you accepted a commission, the foregoing cannot be applied to effect a change in your records."

The purposes of this letter are to show that my true permanent address is Silver Spring, Md.; that this was so at the time of my induction; and that official records will substantiate this fact.

In the fall of 1940 I registered as required under the Selective Service Act in Chillicothe, Ohio, where I was then employed. In September of 1942 I came to Washington, D. C., to accept employment with the United States Tariff Commission. When my wife arrived we rented the home of Mr. and Mrs. Eugene Le Leonard at 2000 Lansdowne Way, Silver Spring, Md. While living at that address I paid income taxes and was issued ration books. (Since October 1949 my wife and family are again living at the same address.)

In September of 1943 I was inducted at Baltimore, Md., a fact which is clearly stated on my discharge as an enlisted man and in records of the Army. At that time, my wife, having no relatives in this area and lacking funds to continue living in what was then our home, was, by necessity, forced to return to Milwaukee, Wis. I, having no fixed address in this area, and wanting to facilitate contact between the Army and my wife, used the Milwaukee address for insurance, allotment, and emergency notification purposes. Actually the Milwaukee address is that of my mother and I have not lived there since early in 1940, shortly before my marriage.

When I completed Officers' Candidate School and new records were being established for me, I pointed out to the officer whose task was to see that the correct information was supplied, that prior to my induction I had lived in Silver Spring and been employed by the Tariff Commission; that I was on military leave from my position; and that I would, without question, return to that employment upon separation from the Army. For these reasons, I suggested I show Silver Spring to be my permanent address. In reply, he suggested that I forego doing so at that time and that I await my arrival at a permanent station to make the change, because all of my records could then be changed at one time. So, despite my protests (and officer candidates, especially those who would be successful, do not make it a practice to overrule or disregard superior officers) my permanent address continued to be shown as Milwaukee, Wis.

While at my permanent station I acted upon the suggestion made by this officer and, in October 1945, attempted to have the record changed; it was then I learned of the policy of the Adjutant General's Office on this matter. However, your attention is directed to the reply received at that time (see attachment) and that in its opening paragraph the Army acknowledged the fact that, at the time of my induction, 2000 Lansdowne Way was my permanent address. General Lewis, you will recall, had said in his letter that my record could not be changed because the Milwaukee address had been given at the time of my induction.

In January of 1946 I was separated from the Army at the specific request of the United States Tariff Commission and shortly thereafter returned to Washington.

On the basis of the facts presented above, I feel it is only right that my record be changed to show Silver Spring as my permanent address; certainly, the reason given by General Lewis is not a valid one, in view of previous acknowledgment by the Army, for not doing so.

If any further information is required, or if you would like to personally discuss this matter, please let me know.

Sincerely yours,

JOHN H. VOGEL.

WAR DEPARTMENT,
THE ADJUTANT GENERAL'S OFFICE,
Washington 25, D. C., May 5, 1948.

First Lt. JOHN H. VOGEL,
402 Clayborne Avenue, Takoma Park, Md.

DEAR LIEUTENANT VOGEL: Reference is made to your recent letter relative to a claim for reimbursement of the cost of shipping household goods and request for a change of home address.

There are provisions whereby an officer, who was commissioned from an enlisted grade, erroneously designated as his home the place where he was then serving rather than the place of his home of record, may be entitled, upon release from active duty, to mileage to his home of record, providing he certifies he erroneously designated his duty station or a nearby place, but that his home in fact was at the place stated in the certificate and provided the place so stated

agrees with his residence of record in the Department of the Army as shown by his enlistment papers. However, since you gave Milwaukee, Wis., as your home of record upon induction as well as at the time you accepted a commission, the foregoing provisions cannot be applied to effect a change in your records.

Under the provisions of section III, paragraph 14a (II) b, AR 55-160, April 26, 1943, upon termination of active duty in excess of 61 days, first lieutenants of the Army of the United States will be authorized shipment of a maximum of 7,500 pounds baggage to the home or any place selected, provided the cost of shipment to the place selected is no greater than to the place designated as the home when called to active duty. No excess weight will be shipped.

The "home" is the permanent residence or domicile of the officer when ordered to active duty. The Comptroller General has consistently ruled that an officer may not obligate the Government for any greater allowance of mileage upon relief from active duty than from his last duty station to his home of record in The Adjutant General's Office.

In view of the above you are eligible for shipment of baggage within the authorized weight, from your last duty station to Milwaukee, Wis., or an equal distance.

I regret that my reply cannot be more favorable.

Sincerely yours

H. B. LEWIS,

Major General, Acting The Adjutant General.

